

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/SB 1842 Public Roadways
SPONSOR(S): Community Affairs; Transportation Committee and Senator Bennett
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	9 Y, 0 N w/CS	Eichin	Meyer
2) Community Affairs	9 Y, 0 N w/CS	Howes	Yeatman
3) Transportation and Economic Development Appropriations	5 Y, 0 N	Carey	Noble
4) House Vote on Final Passage	118 Y, 0 N		
5)			

SUMMARY ANALYSIS

The State Highway System Access Management Act provides for the regulation of access to the State Highway System. This law provides that adjacent property owners have a right to reasonable, but not unregulated, access to their property. These access rights are subject to reasonable regulation to ensure a safe and efficient highway system. The Department of Transportation (DOT) has implemented access management guidelines to provide guidance on access management issues.

The bill requires DOT to notify affected local governments prior to proposed changes to state highways where the project:

- Divides a state highway;
- Erects a median barrier which would modify vehicle turning movements; or
- Have the effect of closing or modifying existing access to adjacent property.

The notification must occur at least 180 days before the design of the project is finalized. The bill also allows the local government to present alternatives which would relieve the impacts to the business properties. Further, the bill requires DOT to hold at least one public hearing in the jurisdiction where the project is located and receive public input.

DOT may see an increase in expenditures due to having to notify property owners and local governments prior to doing certain projects, and should be able to absorb these costs within existing resources.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Sections 335.18 through 335.188, F.S., creates the "State Highway System Access Management Act." This law provides that the access management regulations are necessary "to protect the public health, safety, and welfare, to preserve the functional integrity of the State Highway System, and to promote the safe and efficient movement of people and goods within the state."

The law also gives property owners whose property abuts the State Highway System the right to reasonable access, but not unregulated access to the property. These access rights are "subject to reasonable regulation to ensure the public's right and interest in a safe and efficient highway system."

The Department of Transportation (DOT) has implemented access management guidelines to provide guidance on access management issues.¹ The guidelines address the location, design, and operation of driveways, median openings, interchanges, and street connections. A basic principal of access management is to limit the number of conflict points along a roadway by limiting the number of driveways and median openings and restricting certain movements at some median openings. The goal of these guidelines is to properly balance access and mobility in the design of state roadways.

Section 339.155(6), F.S., provides for public participation in DOT's planning process. It provides that in developing major transportation improvements such as increasing capacity or providing new access to a limited or controlled access facility or constructing a facility in a new location, DOT is required to hold one or more public hearings, including before DOT selects and commits to a specific design. The hearing is to be conducted to provide an opportunity for effective participation by interested parties. At least 20 days prior to a hearing related to design, DOT is required to notify property owners of record within 300 feet of the centerline of the proposed facility and those whom DOT determines will be substantially affected environmentally, economically, socially, or safetywise.

Some businesses have raised concerns that the installation of raised medians in front of their businesses hurts the business. These medians and other access management techniques are designed to improve safety and traffic flow in the roadways. The University of South Florida reviewed some studies on the

¹ Information on DOT's access management program is available at <http://www.dot.state.fl.us/planning/systems/sm/accman/>.

economic impacts of access management and determined that following the installation of median projects some business noticed an increase in activity, while others a decrease, but there was “little overall adverse impact on business activity.”²

According to a DOT access management brochure which is available to the public and business owners:

Studies have found that “destination” businesses (doctors, specialty retail stores, service-oriented businesses) are not affected by access management modifications. Interviews with both customers and business owners have shown that most people have no problem making a slightly longer trip, including U-turns, to access destination businesses. Although pass-by businesses (convenience stores, gas stations, fast food restaurants) may be impacted more by access management modifications, studies have shown that even pass-by businesses are not negatively impacted as long as reasonable access is provided.³

Proposed Changes

The bill creates s. 335.199, F.S. This new section provides that when DOT proposes a project on the State Highway System which: will divide a state highway; will erect median barriers modifying currently available vehicle turning movements; or have the effect of closing or modifying an existing access connection to an abutting property owner, it must notify all affected property owners, municipalities, and counties at least 180 days before the project’s design is finalized. The notice is required to provide a written explanation regarding the need for the project and indicate that all affected parties will be given an opportunity to provide comments to DOT regarding the potential impact of the change.

For projects within municipal boundaries, the notification is to be issued in writing to the chief elected official in the municipality. For projects in unincorporated areas, the notification is to be issued in writing to the chief elected official in the county.

The bill requires DOT to consult with the applicable local government on its final design proposal if it intends to divide a state highway, erect median barriers, or close or modify existing access to abutting commercial business properties. The local government may present DOT with alternatives that relieve impacts to business properties.

The bill also requires DOT to hold at least one public hearing in the jurisdiction where the project is located and receive public input to determine how the project will affect access to businesses and the potential economic impact of the project on the local business community.

DOT is required to review all the comments from the public hearing and take the comments and any alternative provided by local governments into consideration in the final design of the highway project. The bill does not require DOT to modify final design based on comments from the public or alternatives proposed by the local government.

The bill has an effective date of July 1, 2010.

B. SECTION DIRECTORY:

Section 1 Creates s. 335.199, F.S., relating to transportation projects modifying access to adjacent property.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

² http://www.cutr.usf.edu/research/access_m/pdf/Econeffects.pdf (October 11, 2010).

³ <http://www.dot.state.fl.us/planning/systems/sm/accman/pdfs/ampromo3.pdf> (October 21, 2010).

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

DOT may incur some additional administrative expenses associated with notifying affected property owners and local governments and holding public hearings in the design phase of certain transportation projects. Given the large total project budgets of most transportation improvements, these additional expenses are not significant and the department should be able to absorb these costs within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

Municipalities and counties may incur some incidental expenditures associated with reviewing and possibly providing additional alternatives for certain DOT projects.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Providing an enhanced opportunity for local input into DOT decisions regarding access issues could result in final project design that reduces or eliminates any adverse impact on businesses and the public's access to businesses.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES